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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,311	02/12/2004	Michael C. Kilmer	CPE-001	5536
21897	7590	11/15/2006		
THE MATTHEWS FIRM 2000 BERING DRIVE SUITE 700 HOUSTON, TX 77057				
			EXAMINER POPOVICS, ROBERT J	
			ART UNIT 1724	PAPER NUMBER

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/777,311

Applicant(s)

KILMER ET AL.

Examiner

Robert J. Popovics

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 8/28/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

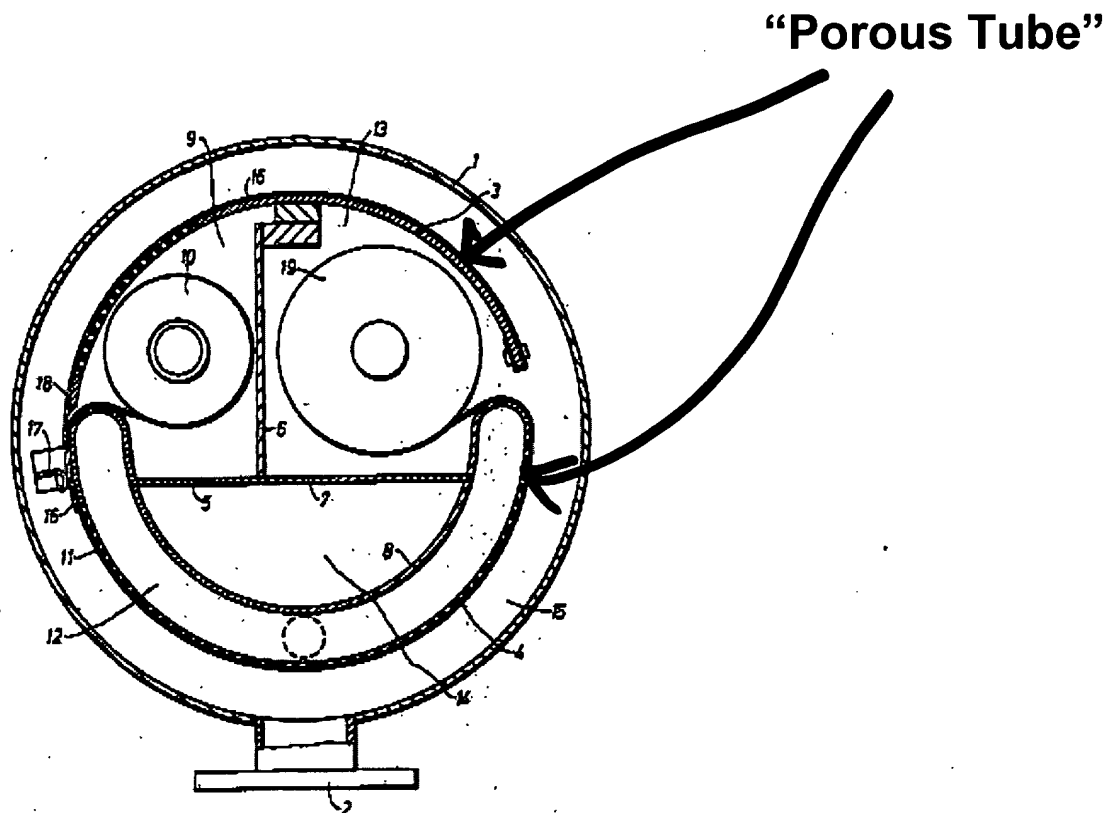
### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

#### *Claim Rejections - 35 USC § 102*

Claims 1,5,12 and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by **Ruland (US 3,979,299)**. See rolls 10 and 19.



#### *Claim Rejections - 35 USC § 103*

Claims 2-4,6-11,13-15 and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Ruland (US 3,979,299)**.

The Examiner takes official notice that it is notoriously well known to employ rollers to support and/or facilitate movement (e.g., reduce friction) of filter media.

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Claims **2-4,7-10,13-15** and **22-25** differ from **Ruland** by specifying rollers. It would have been obvious to employ conventional rollers in **Ruland** in order to support and/or facilitate movement of the filter media by reducing the friction associated with movement.

Claims **6** and **21** specify the porous tube to be non-circular in cross-section. The selection of the shape of the porous tube, absent a showing of criticality or unexpected results specifically associated therewith, is well within the purview of the skilled artisan, given the scope and content of the prior art. It would have been obvious for one skilled in the art to employ a non-circular porous tube in the system of Ruland, since a circular shape is simply one of many shapes that those skilled in the art would have recognized to be effective as the porous tube. See In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966) (The court held that the configuration of the claimed disposable plastic nursing container was a matter of choice which a person of ordinary skill in the art would have found obvious absent persuasive evidence that the particular configuration of the claimed container was significant.).

Claim **11** specifies the porous tube to be ceramic. Ceramic is a well known material of construction in the filtration art. The selection of the material of construction, absent a showing of criticality or unexpected results specifically associated therewith, is well within the purview of the skilled artisan, given the scope and content of the prior art. It would have been obvious for one skilled in the art to employ a ceramic porous tube in the system of Ruland, since ceramic is a well known and effective material of construction in the filtration art.

***Claim Rejections - 35 USC § 112***

Claims **22-25** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The reference to ***"rollers"*** in these claims appears to lack clear positive antecedent basis.

***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, **unless the references have been cited by the examiner on form PTO-892, they have not been considered.**

Any inquiry concerning this communication should be directed to Robert J. Popovics at telephone number (571) 272-1164.

A large, stylized handwritten signature in black ink, likely belonging to Robert James Popovics. The signature is fluid and cursive, with a prominent loop at the beginning and a long, sweeping tail that ends in a small dot.

Robert James Popovics  
Primary Examiner  
Art Unit 1724